

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MERCY MEDICAL CENTER,

Plaintiff,

No. 3:15-cv-00699-PK

ORDER

v.

OREGON NURSES ASSOCIATION,

Defendant.

HERNÁNDEZ, District Judge:

Magistrate Judge Papak issued a Findings and Recommendation [31] on December 29, 2015, recommending that this Court grant Defendant Oregon Nurses Association's ("ONA") Motion for Summary Judgment. Plaintiff Mercy Medical Center timely filed objections [36] to the Findings & Recommendation. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

When a party objects to any portion of the Magistrate Judge's Findings & Recommendation, the district court must make a *de novo* determination of that portion of the

Magistrate Judge's report. 28 U.S.C. § 636(b)(1); Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

I have carefully considered Plaintiff Mercy Medical Center's ("MMC") objections and conclude there is no basis to modify Judge Papak's Recommendation to grant summary judgment in favor of ONA.

However, the Court notes an error in Judge Papak's description of the facts of this case, and offers the following clarification. Judge Papak wrote that Nancy Sheiner, the individual whose conduct and termination form the factual basis of this dispute, "accessed a co-worker's [Protected Health Information ("PHI")] in violation of the Minimum Necessary Rule" of the parties' collective bargaining agreement. Findings & Recommendation, ECF No. 31, at 2. Sheiner actually accessed the PHI of a patient who had been assigned to one of Sheiner's co-workers. Compl. at 11, ECF No. 1; Pl.'s Obj. at 3 n.2, ECF No. 36 (noting the parties agree that Sheiner accessed a patient's, not a co-worker's, PHI) . Because Sheiner's actions fell short of the Arbitrator's interpretation of what constitutes a "serious breach," this factored into the Arbitrator's decision to award Sheiner's reinstatement with a final written warning. Compl. at 28–29, 40; Findings & Recommendation at 3.

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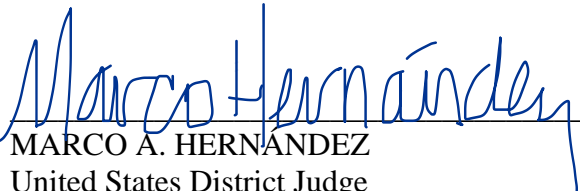
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CONCLUSION

The Court ADOPTS Magistrate Judge Papak's Findings & Recommendation [31].
Therefore, Plaintiff's motion for summary judgment [19] is denied, Defendant's motion for
summary judgment [17] is granted, and Plaintiff's claims are dismissed with prejudice.

IT IS SO ORDERED.

DATED this 22 day of April, 2016.


MARCO A. HERNANDEZ
United States District Judge